IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2263 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

C J BHATT PROF.

Versus

STATE OF GUJARAT

Appearance:

MR HJ NANAVATI for Petitioner

Mr.K.P. Raval, ASSTT GOVT. PLEADER for Respondent No. 1

NOTICE SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 23/02/2001

ORAL JUDGEMENT

The facts of the case are that the petitioner joined services having qualification of M.A. (Economics) with effect from 16.8.1962 in L.E. Engineering College, Morvi in Gujarat Education Services Class III. The petitioner was thereafter selected by Gujarat Public

Service Commission. He was appointed as a lecturer with effect from 4.5.1964 in Humanities subject, which is known as a non technical subject in the Engineering College. The case of the petitioner is that Govt. of India had appointed regional committees in various parts of country in order to examine the working and requirement of additional physical facilities in various Engineering Colleges. Accordingly for Wester Region, a committee was appointed which visited L.E. Engineering College, Morvi on 8.5.1965. Said committee recommended that he education in Engineering discipline depends upon three basic areas, namely, (i) Science, (ii) Engineering and (iii) Humanities and Social Science.

2. It was also observed by the committee that since all other disciplines have got Class I post, it is an academic need that these subjects also should have Class I posts in view of the fact that most of these subjects are being taught at Pre Final and Final Year level and they are of developing nature. The committee recommended that there are four teachings posts in non technical section and all are of the same cadre and it would be desirable that there should be at least one post in superior cadre to look after the routine work and for better administrative control. The petitioner then proceeds to mention that in view of the recommendations of the committee the petitioner made a representation dated 8.10.1971 to the Government for consideration of his case. The petitioner did not pursue the matter any further until he made a further representation in the year 1975. In the meantime there was a pay revision in the year 1972. In view of the revision of pay, the Director of Technical Education had declared allocation of the post with effect from 1.4.1966 in non technical subject in the institution under his control. It was pursuant to this that the petitioner made a second round of representation in the year 1975. It is agitated by the petitioner in para 4.5 that,

> ".. .. despite the petitioner's three representations, the respondents placed the petitioner in the pay scale of Rs.400-- 800/-.. .. .."

Whereas the claim of the petitioner was that the petitioner ought to have been placed in the pay scale of Rs.700-- 1100/-. For the reasons best known to the petitioner, the petitioner did not take recourse to any legal remedy and felt contented only by agitating the question vide his representations which were made on 23.3.1977, 27.11.1979 and 28.5.1982 (details given in

para 4.5 of the petition). The petitioner has based his claim that by letter dated 23.10.1980 the petitioner was informed that his case is under consideration which made the petitioner to wait for all this time without taking recourse to any legal remedy. The petitioner has then submitted that in the meantime on 22.6.1983 the petitioner was appointed as Director of College Development Council, Saurashtra University and even during the deputation the petitioner wrote a letter to respondent no.2 on 29.8.1987 inter alia requesting for settlement of his long pending claim. A copy of letter dated 29.8.1987 is produced at Annexure 'G' to this petition.

3. In light of these facts what is to be appreciated is that the petition is filed for the following reliefs:

"(B) declare that the petitioner is eligible/ entitled to be placed in the pay scale of Rs.700-- 1100 with effect from 1.4.66 as per the Govt. Resolution dated 3.3.1972 and further entitled to the placement in the revised pay scale corresponding to Rs.700-- 1100;

(C) declare that the petitioner is entitled for placement in Class I cadre in view of the Govt. Resolution at Annexure 'B' dated 3.3.1972;

(D) direct the respondents, their officers, agents and servants to place the petitioner in the pay scale of Rs.700-- 1100 with effect from 1.4.1966 and in the corresponding revised pay scale and on the basis of the said fixation, to pay to the petitioner the difference of arrears of salary within the stipulated time as may be deemed fit by this Hon'ble Court;"

4. Learned advocate for the petitioner submitted that the petitioner has already retired from service in 1995. In view of the aforesaid facts this court is of the opinion that no relief can be granted to the petitioner. However, an affidavit in reply is filed on behalf of respondent no.2 wherein it is submitted that the petitioner was not entitled to get benefit as claimed for in view of the fact that in Gujarat Education Services Class II, in non technical subjects, only 11 posts were to be given benefits of said revised pay scales and there are only two posts in subject of humanities for which the petitioner was appointed as a lecturer and came to be confirmed only in 1982; thus he was never eligible in view of the fact that the

petitioner was not the senior most lecturer in the said subject and even as per the common seniority list of all the teachers of non technical branch the petitioner figured at serial no.5 as per Annexure I to the petition.

5. In view of the aforesaid discussion this petition fails. Dismissed accordingly. Rule is discharged with no order as to costs.

(Ravi R. Tripathi, J.)

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